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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,004	12/13/2004	Markus Gisler	2002CH005	6707

25255 7590 12/16/2005

CLARIANT CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
4000 MONROE ROAD  
CHARLOTTE, NC 28205

EXAMINER
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KLEMANSKI, HELENE G

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/518,004	<b>Applicant(s)</b> GISLER, MARKUS	
	<b>Examiner</b> Helene Klemanski	<b>Art Unit</b> 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12/13/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Search Report***

1. The references cited in the Search Report dated September 19, 2003 have been considered.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 2 are considered confusing since there is no basis for the percentages of the components. Therefore, it would be impossible for one of ordinary skill in the art to determine if the amounts are based on weight%, volume%, mole% etc. Please clarify.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0149170 (Equivalent to CH 657865 in search report).

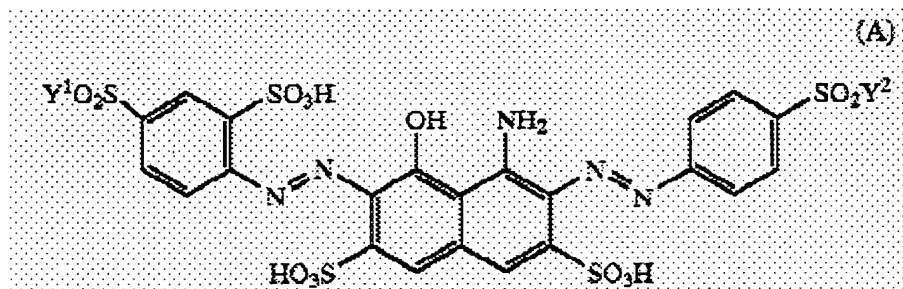
EP 0149170 teaches reactive azo dyes of the formula 1 (see example 1) as claimed by applicants. EP 0149170 further teaches a coloration procedure wherein 6 parts of the dye of applicants formula 1a is treated with 50 parts of a solution comprising 16 g of sodium hydroxide per liter thereby producing a mixture of reactive azo dyes of the formula 1 and 1d in the amounts as claimed by applicants (see pages 7, 8 and 16 of the specification). The reactive azo dyes are used for dyeing hydroxyl-containing organic substrates as well as the dyes substrates. See the abstract, page 2, formula (1) and example 1. The reactive azo dye mixtures as taught by EP 0149170 appears to anticipate the present claims.

The preamble limitation "for a trichromatic dying process" is of no consequence when a composition is the same. Ultimate intended utility does not make a composition patentable. See *In re Pearson*, 181 U.S.P.Q. 6411.

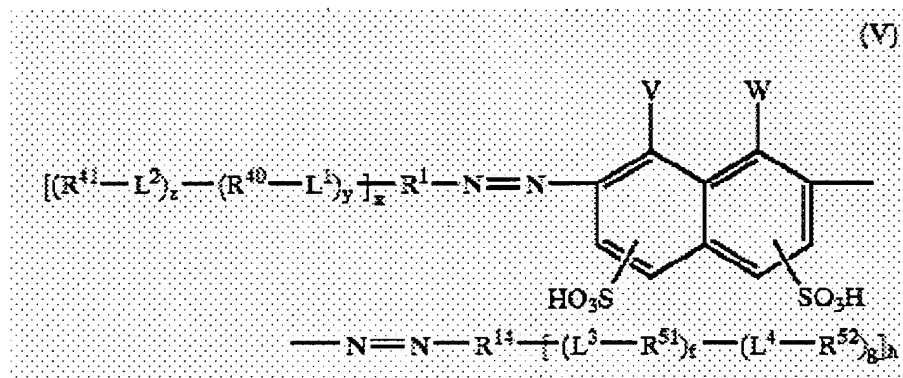
Applicants should note that the above reference was considered to the extent of information contained in the International Preliminary Examination Report supplied by applicants since the reference is in German and no English equivalent was available. The examiner respectfully requests a translation of the above reference.

5. Claims 1-3, 5-7, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Zamponi (US 6,800,099).

Zamponi teaches a dye mixture comprising components A and B wherein component A is a reactive dye of the formula



wherein each of Y<sup>1</sup> and Y<sup>2</sup>, independently is a vinyl group and component B is at least one reactive dye of the formula



wherein R<sup>1</sup> and R<sup>14</sup> are each a phenyl group substituted with a vinyl sulphonyl group or a group SO<sub>2</sub>CH<sub>2</sub>CH<sub>2</sub>Q<sup>1</sup>; Q<sup>1</sup> is a leaving group removable under alkaline conditions to provide a vinyl sulphonyl group such as -OSO<sub>3</sub>H; V is amino; W is hydroxy and x, y, z, f, g and h are zero. In the dye mixture, component A is present in an amount of 10-99.5% by weight and component B is present in an amount of 0.5-90% by weight. The mixtures can be used to print on substrates containing a hydroxyl group or a nitrogen

atom. See col. 1, line 65 – col. 2, line 22, col. 6, lines 24-67, col. 17, the last paragraph and dyes (163) and (167), col. 23, lines 10-62, col. 24, lines 10-30, example 1 and claims 1-3 and 18. The dye mixture as taught by Zamponi appears to anticipate the present claims.

The preamble limitation "for a trichromatic dying process" is of no consequence when a composition is the same. Ultimate intended utility does not make a composition patentable. See *In re Pearson*, 181 U.S.P.Q. 6412.

### ***Allowable Subject Matter***

6. Claims 4 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or fairly suggest an ink jet printing ink comprising the dye mixture as claimed by applicants.

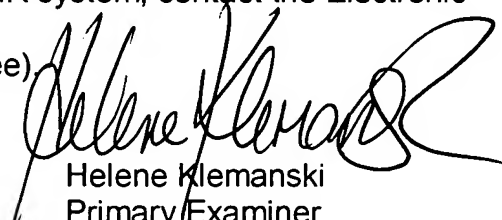
### ***Conclusion***

The remaining references listed on forms 892 and 1449 have been reviewed by the examiner and are considered to be cumulative to or less material than the prior art references relied upon in the above rejections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Helene Klemanski  
Primary Examiner  
Art Unit 1755



HK  
December 12, 2005